

117TH CONGRESS  
1ST SESSION

# H. R. 6206

To amend the Immigration and Nationality Act to reform the H–1B visa program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2021

Mr. BANKS (for himself, Mrs. MILLER of Illinois, Mr. CAWTHORN, Mr. CRAWFORD, Mr. PALAZZO, Mr. HERN, Mr. AUSTIN SCOTT of Georgia, Mr. BURGESS, Mr. WILSON of South Carolina, Mr. MEUSER, Ms. VAN DUYNE, and Mr. LAMALFA) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to reform the H–1B visa program, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Tech Work-  
5 force Act of 2021”.

**6 SEC. 2. FINDINGS.**

7       Congress finds the following:

1                   (1) The H-1B visa has become a program used  
2                   to supplant American workers with inexpensive for-  
3                   eign labor.

4                   (2) 60 percent of H-1B visas are assigned wage  
5                   levels substantially below the local median wages for  
6                   their relevant occupations.

7                   (3) The ability to hire non-American workers at  
8                   wages substantially below median wage levels, ad-  
9                   justed for locality and occupation, clearly  
10                  disincentivizes the hiring of American workers.

11                  (4) In 2019, Big Tech companies like Amazon,  
12                  Google, Microsoft, Facebook, IBM, and Apple were  
13                  6 of the top 8 initial approval recipients for H-1B  
14                  visas. This trend has existed since 2014.

15                  (5) The Optional Practical Training Program  
16                  was created without Congressional Authority, was  
17                  expanded by the Obama Administration, and is most  
18                  beneficial to Big Tech.

19                  (6) The Optional Practical Training Program  
20                  allows student visa holders who have completed their  
21                  studies and earned a degree in Science, Technology,  
22                  Engineering, or Math (STEM) to work for up to  
23                  three years, and waives their employer's payroll tax  
24                  obligations for the OPT participant.

1                             (7) The Optional Practical Training Program  
2       functions as a tax break for employers who do not  
3       employ Americans, and actively incentivizes such.

4                             **SEC. 3. OPTIONAL PRACTICAL TRAINING PROGRAM TERMI-**  
5                             **NATED; EMPLOYMENT AUTHORIZATION TO**  
6                             **TERMINATE AFTER COMPLETION OF COURSE**  
7                             **OF STUDIES.**

8                             (a) IN GENERAL.—Section 274A(h) of the Immigration  
9       and Nationality Act (8 U.S.C. 1324a) is amended by  
10      adding at the end the following:

11                             “(4) EMPLOYMENT AUTHORIZATION FOR  
12       ALIENS NO LONGER ENGAGED IN FULL-TIME STUDY  
13       IN THE UNITED STATES.—Notwithstanding any  
14       other provision of law, no alien present in the United  
15       States as a nonimmigrant under section  
16       101(a)(15)(F)(i) may be provided employment au-  
17       thorization in the United States pursuant to the Op-  
18       tional Practical Training Program, or any such suc-  
19       cessor program, and the Optional Practical Training  
20       Program shall be terminated. Any employment au-  
21       thorization for a nonimmigrant under section  
22       101(a)(15)(F) shall terminate upon completion of  
23       the alien’s course of studies and may not be granted  
24       or extended thereafter.”.

1       (b) TRANSITION RULE.—Any application for the Op-  
2   tional Practical Training Program that is pending as of  
3   the date of enactment of this Act shall be rejected and  
4   any fees paid pertaining to such application shall be re-  
5   funded.

6   **SEC. 4. OTHER PROVISIONS REGARDING H-1B NON-**  
7                   **IMMIGRANTS.**

8       Section 212(n) of the Immigration and Nationality  
9   Act (8 U.S.C. 1182(n)) is amended—

10              (1) in subparagraph (A), to read as follows:

11                  “(A) That the employer is offering, and  
12                  will offer during the period of authorized em-  
13                  ployment, an annual wage to the H-1B non-  
14                  immigrant that is the greater of—

15                  “(i) the annual wage that was paid to  
16                  the United States citizen or lawful perma-  
17                  nent resident employee who did identical or  
18                  similar work during the 2 years before the  
19                  employer filed such application; or

20                  “(ii) \$110,000, if offered not later  
21                  than 1 year after the date of the enact-  
22                  ment of the American Tech Workforce Act  
23                  of 2021, which amount shall be annually  
24                  adjusted for inflation by July 1 of each  
25                  year.”; and

1                             (2) by adding at the end the following:

2                 “(6) PERIOD OF VALIDITY.—A visa granted  
3 under section 101(a)(15)(H)(i)(b) to an H-1B non-  
4 immigrant pursuant to a petition by any employer,  
5 if any part of such an assignment will be performed  
6 at a third-party worksite, shall be valid for a period  
7 of not more than 1 year.

8                 “(7) SPECIFIC AND NON-SPECULATIVE EMPLOY-  
9 MENT REQUIREMENT.—No visa may be granted  
10 under section 101(a)(15)(H)(i)(b) if any part of the  
11 assignment for the beneficiary of the petition will be  
12 performed at a third-party worksite unless the as-  
13 signment is specific and non-speculative and lasts  
14 for the entire time requested in the petition.

15                 “(8) ORDER OF PRIORITY.—In issuing visa or  
16 according status under section 101(a)(15)(H)(i)(b)  
17 for a fiscal year, applications from employers in ac-  
18 cordance with this subsection shall be granted in  
19 order of the highest compensation rate included in  
20 the application to the lowest.”.

